IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1124 OF 2006.
IN
CRIMINAL APPEAL NO. 1013 OF 2006.

Fazal Kasamali Jafer. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri Prakash Shetty for the Applicant.

Shri U.V.Nikam, A.P.P. for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 8th November, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Applicant and the learned A.P.P. for the State. The Applicant is accused No.1 who has been acquitted of the offence punishable under section 489(B) read with section 120B of the Indian Penal Code. However, he has been convicted under section 489(C) read with section 34 of the Penal Code. The substantive sentence is of 7 years R.I. with fine of Rs.50,000/- and in default of payment of fine, he has to undergo R.I. for six months. The Applicant is in custody from 25th September 2004. Thus out of the sentence period of 7 years, he has spent more than two years in jail.

2. The Applicant has, however, not paid the fine amount. The Appeal is not likely to be heard in near future and therefore, the Applicant is entitled to be enlarged on bail in view of the decision of the Apex Court in the case of Bhagwan Rama Shinde Gosai and

others v/s. State of Gujarat [(1999) 4 S.C.C. page 421]. However, the Applicant will be enlarged on bail only after fine amount is paid.

3. Hence the following order is passed:

i) The Applicant shall be enlarged on bail in the sum of Rs.15,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the Applicant will report to Santacruz Police Station once in every two calender months till the disposal of the Appeal.

iii) The order granting bail will be given effect to only after the fine amount of Rs.50,000/- is deposited by the Applicant.

Judge.